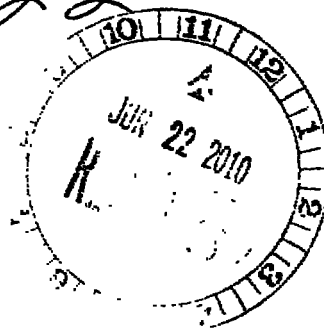


227322



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**TECK METALS LTD. – PETITION
FOR DECLARATORY ORDER –
PRACTICES OF WHEELING &
LAKE ERIE RAILWAY COMPANY**

Finance Docket No. 35324

TECK METALS LTD.'S MOTION TO DISMISS

Christine Deynaka
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Box 1000
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**ENTERED
Office of Proceedings**

JUN 22 2010

**Part of
Public Record**

OF COUNSEL:

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Dated: June 22, 2010

Attorneys for Teck Metals, Ltd.

TECK METALS LTD. – PETITION FOR DECLARATORY ORDER – PRACTICES OF WHEELING & LAKE ERIE RAILWAY COMPANY	Finance Docket No. 35324
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COMES NOW Petitioner Teck Metals Ltd. (“Teck”), and files this Motion to dismiss the instant proceeding, with prejudice, and in support thereof shows as follows:

1. On November 17, 2009, Teck filed a Petition for Declaratory Order seeking Board consideration of a dispute involving demurrage charges assessed by Wheeling & Lake Erie Railway Company (“W&LE”) against Teck for shipments of zinc from Trail, British Columbia to Martin’s Ferry, Ohio. The Petition was filed pursuant to an order of referral dated October 29, 2009, issued by the United States District Court for the Northern District of Ohio, Eastern Division, in Case No. 5:09-cv-01184, *Wheeling & Lake Erie Railway Company v. Teck Cominco Metals Ltd.*. In an Order served January 22, 2010, the Board instituted the instant proceeding.

2. The parties have reached a voluntary, final settlement that resolves all of the issues raised in this proceeding and in the action pending in the Federal District Court. As part of their Settlement Agreement, Teck and W&LE have stipulated to the dismissal of the declaratory order proceeding before the Board, as well as to the dismissal of the civil action before the District Court.

3. In light of the foregoing, Teck respectfully requests that the Board enter an Order dismissing Teck's Petition for Declaratory Order, with prejudice, and discontinuing the instant proceeding.


Respectfully submitted,

TECK METALS LTD.

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Dated: June 22, 2010

Attorneys & Practitioners

CERTIFICATE OF SERVICE

I hereby certify that this 22nd day of June, 2010, I served copies of Teck Metals Ltd.'s Motion to Dismiss by United States mail, first class postage prepaid on counsel for the Wheeling & Lake Erie Railway Company, as follows:

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